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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of

Policies and Rules Pertaining to  
Local Exchange Carrier "Freezes"  
on Consumer Choices of Primary  
Local Exchange or Interexchange  
Carriers

File No. CCB/CPD 97-19  
RM-9085

Comments  
of the  
United States Telephone Association

The United States Telephone Association (USTA) respectfully submits its comments in the above referenced proceeding. USTA is the principal trade association of the incumbent local exchange carrier (LEC) industry. Its members provide over 94 percent of the LEC-provided access lines in the United States.

On March 18, 1997, MCI Telecommunications Corporation (MCI) filed a petition, pursuant to Section 1.401 of the Commission's Rules, 47 C. F. R. § 1.401, which "...requests that the Commission institute a rulemaking to regulate the solicitation, by any carrier or its agent, of primary interexchange carrier (PIC) 'freezes' or other carrier restrictions on the switching of a consumer's primary interexchange (interLATA and intraLATA toll) and local exchange carrier."<sup>1</sup> USTA recommends that the Commission deny MCI's petition.

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<sup>1</sup> Petition for Rulemaking by MCI Telecommunications Corporation, March 18, 1997, In the Matter of Policies and Rules Pertaining to Local Exchange Carrier "freezes" on Consumer Choices of Primary Local Exchange or Interexchange Carriers, p. 1.

Slamming is a term of art in the telecommunications industry to describe the practice of changing a customer's long distance carrier, or primary interexchange carrier (PIC), without the customer's knowledge or authorization. PIC freezes are customer-oriented tools that some local exchange carriers use to counteract the problems that customers have experienced or may experience as a result of slamming. A PIC freeze will permit a customer to place a restriction on his/her line so that PIC changes cannot be processed without specific authorization from the customer. A PIC freeze assures consumers that they have taken a positive step to avoid the frustration, deceit, and financial loss that all too often accompany slamming.

MCI contends that PIC freezes are "cumbersome" processes that LECs "misuse..to shield their own customer base from competition and to refuse to implement carrier changes that customers want."<sup>2</sup> In fact, neither of these assertions is true. PIC freezes do not shield a LEC from competition because LECs implement PIC freezes for customers irrespective of the consumer's choice of carrier. Thus, MCI actually enjoys the advantage that a PIC freeze offers. And MCI is wrong to assert that PIC freezes translate to a LEC's refusal to implement a customer desired change. A LEC will change a customer's account to a new carrier even after a PIC freeze is in place but will do so according to the procedure it has instituted to ensure that a frozen account is properly changed. This is not a refusal, merely a quality and fraud control mechanism to ensure that slamming will neither occur nor reoccur. Once again, MCI enjoys the

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<sup>2</sup> Ibid., p. 2.

benefits of such a procedure because an account that has been frozen with MCI would only be changed when and if the customer instituted the change.

MCI proposes that the Commission adopt a rule pertaining to PIC freezes and carrier restrictions. The components of the rule are either entirely unnecessary or are themselves anti-competitive. MCI proposes that consumer solicitations be neither deceptive, misleading nor favorable to an affiliated carrier. Such language is not necessary. PIC freezes are voluntary in nature, employed irrespective of the customer's PIC choice, and can be easily changed by the customer. Furthermore, MCI cannot refute that PIC freezes are the most effective means to curb the slamming practice, a practice that remains in the domain of interexchange carriers and not local exchange carriers.

Additionally, MCI proposes that carriers furnish upon a reasonable request and basis the name and telephone numbers of all consumers who have "in effect a PIC freeze and/or local, intraLATA or interLATA carrier restrictions on their accounts." The release of information relating to a PIC freeze or other carrier restrictions, without the customer's written consent<sup>3</sup>, would amount to the unauthorized disclosure of customer proprietary network information. Clearly, MCI's suggested rule asks LECs to violate Section 222 of the Telecommunications Act of 1996 for its marketing advantage.

USTA recommends that the Commission deny MCI's petition. If a LEC engages in any business practice in an inappropriate manner, the Commission can address such an occurrence on

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<sup>3</sup> Section 222 (c) (2) states that a telecommunications carrier shall disclose customer proprietary network information, upon affirmative written request by the customer, to any person designated by the customer.

a case by case basis. If the Commission wishes to address the issue of PIC freezes, it should only do so as part of its overall consideration of slamming issues pursuant to the Telecommunications Act of 1996.

Respectfully submitted,

United States Telephone Association

By: Keith Townsend

Its Attorneys:

Mary McDermott  
Linda Kent  
Keith Townsend  
Hance Haney

Kathleen M. Woods  
Director, Legal & Regulatory Affairs

1401 H Street NW - Suite 600  
Washington, DC 20005-2164  
(202) 326-7248

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